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Kyle Kolar, Director
City of Manteca Community Development Dept.
1001 W. Center Street
Manteca, CA 95337

25 February 2005

RE: Union Ranch Specific Plan DEIR.

Mr. Kollar:

The Mother Lode Chapter of the Sierra Club submits the following comments on the Draft Environmental Impact Report (DEIR) for the Union Ranch Specific Plan.

In general, we are most concerned that this DEIR fails to adequately assess and mitigate loss of important agricultural lands, in violation of a recent legal settlement with the City. In addition, the issues of regional transportation impacts, wastewater treatment capacity, air quality, and biological resources have been inadequately analyzed and mitigated. The alternatives analyzed in the DEIR are also inadequate in complying with the California Environmental Quality Act (CEQA).

No Mitigation Fee for Farmland Loss in Violation of Legal Agreement

The settlement by the Sierra Club of the South San Joaquin Irrigation District (SSJID) lawsuit requires the City of Manteca (as well as the cities of Lathrop and Tracy) to adopt an agricultural mitigation fee by March, 2005 and to collect at least \$2,000 per acre fee from developments that convert prime agricultural lands using SSJID water. The City of Manteca (and the other two cities) have failed to even begin work on adoption of a such a fee program to date. We advised the cities of our displeasure with the lack of progress in our letter of January 10, 2005. A hearing in the Third District Court of Appeals has been set for mid-March, at which time the court will ask about the progress of the settlement agreement, and the Sierra Club will decide whether to dismiss or re-instate our appeal of the SSJID lawsuit.

Please be advised that if the City of Manteca fails to assess an agricultural mitigation fee on this project and approves it without a fee, in violation of the settlement, the Sierra Club will challenge this DEIR and project in court.

DEIR Mitigation for Ag Loss is Inadequate

The DEIR notes that the project would cause the loss of 241 acres of Prime Farmland and 289 acres of Farmlands of Statewide Importance (together, the entire site of 530 acres is subject to the fee established by the settlement agreement). The DEIR mitigation for the loss of over 500 acres of farmland is only to require the developer to pay the standard fee to the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (which the developer is already required to do in order to mitigate for biological impacts). Mitigation measure 4.13-1 states that "The SJCOG will use these funds to purchase conservation easements on agricultural and habitat lands in the project vicinity... The preservation in perpetuity of agricultural lands through the SJMSCP, a portion of which would consist of Important Farmland, would ensure the continued protection of farmland in the project vicinity, partially offsetting project impacts."

However, the SJCOG has a very poor record in acquiring habitat or ag easements and there is no guarantee that prime farmland easements in the Manteca area would be acquired with the fee that is paid by this developer. The Final EIR should be amended to clarify this. The FEIR should also be amended to discuss the mitigation fee requirements of the SSJID settlement, and to require a fee separate from the SJMSCP fee to be paid by the project.

The DEIR fails to identify and discuss the recently formed Central Valley Farmland Trust. The trust is now operational in four counties and is charged to purchase conservation easements of farmland according to adopted strategic plans in each county. The Final EIR should be amended to reflect this. The trust will receive ag mitigation fee payments over time from several projects in San Joaquin County, including the River Islands and Central Lathrop projects, and other projects using SSJID water in three cities, totaling approximately \$25 million. Please contact the new executive director of the trust, or Don Bo of Lodi (the chair of the trust board of directors), or Holly King at the Great Valley Center in Modesto, for further details.

Impacts to Adjacent Ag Land Are Not Mitigated

The DEIR states erroneously that "project developers have incorporated ... greenbelts and open spaces that provide separation between adjacent land uses" (page 4.1-18) as a justification for why additional mitigation is not required to buffer adjacent ag lands. Yet, the lotting pattern for the project (see Exhibit 3-7-URPS Phasing Diagram) clearly indicates that no such greenbelts or buffers are planned for almost all of the edges of the project that adjoin adjacent ag lands.

Please explain this discrepancy and correct the erroneous text.

The project design plan should be reconfigured to propose specific buffer areas on all sides of the project that border working ag lands.

Regional Transportation Impacts

The DEIR fails to include adequate mitigation for impacts to regional transportation facilities, such as interchanges along I-5 and SR 99. According to the DEIR, the project would contribute traffic to the Lathrop Road/I-5 interchange, which is currently operating at unacceptable conditions (page 4.11-26).

The DEIR also notes that the City of Lathrop collects fees for regional transportation improvements and "many cities have elected not to participate in this program" including the City of Manteca. The FEIR should explain why Manteca does not collect regional fees.

The mitigation measure for this impact admits that the project's financial contribution to a traffic light at this interchange intersection "would be subject to the control of the City of Lathrop, and it is unknown whether this mitigation would be implemented by the time the URSP builds out" (page 4.11-33).

The FEIR should be amended to discuss the specific issues for further transportation studies and improvements that have been negotiated between Manteca and Lathrop as part of the settlement over the Big League Dreams sports park lawsuit. The FEIR should also include a mitigation measure that proposes that this project pay a regional traffic impact fee similar to the fee established by the City of Lathrop and should negotiate with Lathrop to ensure that the Lathrop Road/I-5 intersection traffic light is constructed prior to this project's buildout.

Wastewater Treatment Capacity

The City of Manteca has a serious lack of wastewater treatment capacity which may or may not be rectified in the short term, depending on new regulatory permits issued by the Central Valley Regional Water Quality Control Board (RWQCB). The DEIR analysis and the lack of a recommended mitigation measure for the increased demand for permanent wastewater treatment and conveyance facilities (page 4.10-17 and -18) are inadequate.

The DEIR states that "Wastewater flows would initially be less than 0.91 mgd, and it is expected that the WQCF expansion would be completed and capable of treating wastewater flows before project buildout. Wastewater generated by the URSP project could be accommodated by the this treatment plant and would not result in exceedance of the plant's permitted design capacity."

This bald statement is not supported by any evidence offered in the DEIR, such as referenced interviews with key City and RWQCB staff, or technical reports. The DEIR fails entirely to provide information about the complicated water quality issues that must be resolved before the city will receive a new waste discharge permit from the RWQCB, which in turn would allow additional capacity to be constructed at the plant which could serve this and other projects. In fact, recent news reports in a local newspaper indicate that the City of Manteca's plant may be subject to large fines by the RWQCB for allowing discharges of illegal concentrations of chemical and bacteria into the San Joaquin River ("Manteca broke laws," San Joaquin Record, January 17, 2005, page B-1)

The FEIR should be amended to include this information and to include a mitigation measure that would require verification of adequate capacity at the City plant, before any phase of the project could be approved and constructed

Air Quality

Air quality has become the most important environmental obstacle facing new growth in the Central Valley. This DEIR, as most do, glosses over potential measures that could alleviate this significant impact, and instead takes the easy way out by proclaiming the impact to be "significant and unavoidable." However, CEQA requires a lead agency to enact all feasible measures that could reduce a significant impact, even if the impact remains unavoidable.

The mitigation measure addressing long term air quality emissions (Impact 4.3-5) states that the "the City shall require all feasible emission control measures be incorporated into project design and operation," yet makes no effort to consider measures beyond the standard "one size fits all" measures recommended in the outdated 1998 SJVAPCD Guide. The analysis fails to consider specific measures such as requiring no- or low- polluting vehicles for residents traveling within the age segregated community (golf cart type machines), or other measures such a mandating developer sponsored daily mini-vans or buses that would transport residents to downtown Manteca or Stockton, or other shopping or cultural locations popular for local residents.

Biological Resources

The DEIR analysis of biological issues is inadequate and should be amended to include additional mitigation. For example, the DEIR fails to disclose the location of the nearest Swainson's hawk nest sites to the project. The DEIR only notes that "there are no CNDDDB records of active nest sites on the project site" and "suitable nesting trees occur on and immediately adjacent to the project site" (page 4.5-17). The FEIR should include a map an description of the nearest documented nesting sites related to the project site.

The FEIR should also discuss the mitigation requirement guidelines adopted by the California Department of Fish and Game (CDFG) for the Swainson's hawk. These guidelines indicate that if a nest site is located within two miles of a project and the project site contains foraging habitat (such as alfalfa and corn fields, which the project site includes), then every acre developed should be mitigated by conserving 0.75 acre of foraging lands through conservation easement or other method.

Mitigation Measure 4.5-3 is inadequate and fails to require consultation with the CDFG. The measure only requires payment of a fee to the SJCOG, and does not ensure that adequate mitigation (conservation of foraging habitat in the Manteca area) will occur for this project.

The SJCOG through the SJMSCP has failed since its inception to acquire significant mitigation lands for Swainson's hawk and other protected species, and will be subject to imminent legal challenge for failure to use the fees that have been collected to date. The FEIR should discuss how many conservation easements have actually been purchased by the SJCOG, and whether

any of the easements have resulted in conservation of lands for Swainson's hawk foraging habitat.

Range of Alternatives is Inadequate

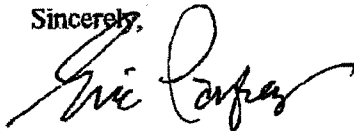
The DEIR range of alternatives studied in the DEIR is inadequate. The analysis of the "Mitigated Design Alternative" contains no meaningful attempt to identify a different configuration of land uses or mitigation measures that would reduce a full range of impacts, compared to the proposed project.

Instead, the "Mitigated Design Alternative" focuses on only one issue, air quality, and proposes an unrealistic new project of 460 units east of Union Road (only 20 percent of the proposed project) in order to come in under the SJVAPCD threshold of "significant" air emissions. This unrealistic alternative can then be easily dismissed since it is "economically infeasible" and "unable to provide certain amenities essential to this type of project" (page 7-7).

This alternatives analysis is very cursory and not consistent with recent case law that requires much more thoughtful and "good faith" efforts to propose and analyze meaningful alternatives to a project. For example, the project design could be reconfigured to include buffers along the interface with adjacent agricultural lands, to include more mitigation for Swainson's hawk impacts, and to include more alternative forms of internal transportation and provide more van and transit links to downtown Manteca and other locations for residents.

If there are any questions regarding these comments, you may contact me at eparfrey@webintellects.net, or 209/462-7079. Please send a copy of the entire Final EIR (not just responses to our comments) and all notices of public hearings to me at 1421 W. Willow Street, Stockton, 95203. Please do not send the Final EIR to the Mother Lode Chapter office of the Sierra Club in Sacramento at the address indicated on the letterhead.

Sincerely,



Eric Parfrey, Chair
Sierra Club, Mother Lode Chapter

cc: Don Mooney
Cities of Tracy and Lathrop
SSJD Board of Directors